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Duty of Candour implementation

As you will be aware, the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#) received Royal Assent on 1 April 2016 and introduced a new organisational duty of candour on health, care and social work services. This duty will apply to almost ten thousand organisations. Annex A gives a full list of the services to whom the duty applies. The implementation date for the duty of candour to come into effect is 1 April 2018.

The overall purpose of the new duty is to ensure that organisations are open, honest and supportive when there is an unexpected or unintended incident resulting in death or harm, as defined in the Act. This duty requires organisations to follow a duty of candour procedure which will include notifying the person affected, apologising and offering a meeting to give an account of what happened. The procedure will also require the organisation to review each incident and offer support to those affected (people who deliver and receive care). The details of this procedure will be set out in Regulations which will be published prior to 1st April 2018. Organisations will have a new requirement to publish an annual report on when the duty has been applied. This will include the number of incidents, how the organisation has complied with the duty and what learning and improvements have been put in place.

An implementation structure has been set up to oversee this work, with representatives from a broad range of health and social care organisations. To assist you to meet these new requirements the Scottish Government, Healthcare Improvement Scotland (HIS), the Care Inspectorate (CI), Scottish Social Services Council (SSSC) and NHS Education for Scotland (NES) are working in partnership with a wide range of stakeholders to design and develop education and training resources and monitoring requirements to support organisations meet the new statutory duty of candour.

Annex B gives some questions and answers which you may wish to consider when planning local implementation of the duty. If you have any further questions, please do not hesitate to email dutyofcandour@gov.scot

[A dedicated webpage](#) with Frequently Asked Questions has been established. Regulations and guidance, examples of duty of candour templates and local policies will be added during 2017.

As Care Inspectorate and Healthcare Improvement Scotland already have existing eForms systems for regulated health and social care services, the intention is to align existing processes and systems as far as possible to minimise paperwork whilst still ensuring that the organisational duty is being applied through a culture of openness and learning.

Further information and updates will be issued as this work progresses.

Yours sincerely,

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ANNEX A

Duty of Candour: organisations covered by the Act

- NHS Boards
- Scottish Ambulance Service
- State Hospital
- Golden Jubilee
- GP services
- Dentistry
- Glasgow Dental Hospital
- Pharmacy
- Optometry
- Independent hospitals and hospices
- Private psychiatric hospitals
- Independent clinics
- Independent medical agencies
- Independent ambulance services
- Support services
- Care home services
- School care accommodation service
- Nurse agencies
- Child care agencies
- Secure accommodation services
- Offender accommodation services
- Adoption services
- Fostering services
- Adult placement services
- Day care of children
- Housing support services
- Social work services offered by or on behalf of local authorities

ANNEX B

Points to consider

1. How will your organisation identify the incidents that trigger the Duty of Candour procedure, as outlined in section 21? Have you satisfied yourself that you understand your responsibilities and have systems in place to respond effectively?
2. Who do you need to engage with to satisfy yourselves you can meet the responsibilities of the Duty and deliver the requirements outlined in the Act?
3. What systems do you have in place to support staff to provide an apology in a person-centred way and how do you support staff to enable them to do this?
4. Do your current systems and processes provide you with the information required to report on the Duty of Candour? How will you align this annual report with other reports you are required to provide such as feedback and complaints, significant events reviews, case reviews etc.?
5. What training and education do you have at present that will support the implementation of the Duty? This could be training that considers issues such as how to give an apology, being open, meetings with families, dealing with difficult situations. You should also consider national training that is available freely to your staff such as e-learning opportunities.
6. What support do you have available for people involved in invoking the procedure (staff) and those affected (staff and service users)?
7. How do you currently share lessons learned and best practice around incidents of harm? Could this be improved in any way?

Useful links

The links below include an example of a local duty of candour policy in England. Although the legislation differs (there is no requirement for an annual report, a written apology must be given, definitions of harm are based on national patient safety agency), the policy intention is the same: to be open and honest with service users, regulators and the general public.

Executive summary of the Mid-Staffordshire Inquiry:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279124/0947.pdf

Case of Robbie Powell, whose father campaigned for a duty of candour

<https://www.theguardian.com/society/2006/jan/04/health.healthandwellbeing>

Sample policy from The Children's Trust:

https://www.thechildrenstrust.org.uk/media/images/IncidentReportingInvestigationIncludingDutyofCandourPolicy_1183.pdf